

THE HONOURABLE SRI JUSTICE D.S.R.VARMA
AND
THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.18693 of 2006

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Dated:04.12.2007

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Between:

M.Siddeshwar and another.

...Petitioners

And

The State of A.P., repled., by its Secretary,
Panchayat Raj and Rural Development
Department, Hyderabad and three others.

...Respondents

THE HONOURABLE SRI JUSTICE D.S.R.VARMA
AND
THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.18693 of 2006

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ORAL ORDER: (per the HON'BLE SRI JUSTICE D.S.R.VARMA)

Heard the learned counsel appearing for the petitioners, the learned Government Pleader, appearing for the respondent Nos.1 to 3, and the learned counsel appearing for the respondent No.4.

2. This writ petition is directed against the common order, dated 23.08.2006, passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for brevity "the Tribunal"), dismissing the applications O.A.Nos.1286 and 1288 of 2006, filed by the petitioners, seeking to declare the Proceedings No.E8/4153/2004, dated 16.02.2006, issued by the respondent No.3, and the consequential Memo No.266/2006/AMR-APARD/ETC-Cell, dated 25.02.2006, issued by the Commissioner, AMR, Andhra Pradesh

Academy of Rural Development (for brevity "APARD"), Hyderabad, as illegal, arbitrary and discriminatory in nature and to direct the respondents not to effect the recovery since the standard rent had already been paid by the petitioners.

3. In the proceedings Rc.No.E8/4153/2004, dated 16.02.2006, issued by the respondent No.4, (i) the Chief Executive Officer, Zilla Parishad, Kurnool, was requested to recover a total sum of Rs.1,11,900/- from the petitioner No.1 i.e., in 7 monthly instalments @ Rs.2,000/- per month from his monthly pay bills with effect from March, 2006 to September, 2006 and the remaining amount of Rs.97,900/- from encashment of earned leave and (ii) the Commissioner, AMR, APARD, Hyderabad, was requested to recover a total amount of Rs.49,000/- from the petitioner No.2 i.e., in 10 monthly equal instalments @ Rs.4,900/- per month from his monthly pay bills with effect from March, 2006, and that the same has to be remitted to Zilla Parishad General Funds, Kurnool, through challan, to the Head of Account No.8448-109-03-001, while in the consequential Memo No.266/2006/AMR-APARD/ETC-Cell, dated 25.02.2006, the Commissioner, AMR, APARD, Rajendranagar, Ranga Reddy District, directed the concerned to remit the entire amount in one lumpsum and submit a copy of challan before the retirement of the petitioner No.2 i.e., in May, 2006 or else the amount will be remitted from the gratuity of the petitioner No.2.

4. From a perusal of the proceedings, dated 16.02.2006, of the District Collector, Kurnool, the respondent No.3, it is clear that the petitioners were drawing the House Rent Allowance (for brevity "the HRA") and paying only the standard rent and as such, the excess amount was ordered to be recovered from them.

5. It appears, as per the circulars, the petitioners are entitled to pay either the HRA, which were in force at the relevant point of time, or the standard rent, whichever is less. By applying the said circulars, which are not in dispute, the petitioners have opted to pay the standard rent, which is a sum of Rs.1,000/- per month, since the HRA was higher i.e., Rs.1,980/- per month, for some time, and thereafter, at the rate of Rs.2,000/- per month, as was mentioned in the table filed in the counter-affidavit.

6. However, the learned counsel appearing for the respondents contended that the petitioners were required to pay a sum of Rs.1,000/- per month towards standard rent, but, unfortunately, contrary to the circulars, they have been drawing the HRA, which was almost double the standard rent, and paying only half of it towards standard rent and thereby, the petitioners were being unduly benefited by about Rs.1,000/- per month.

7. Noticing the said fact, the competent authority has decided to recover the excess amount and accordingly, issued the aforesaid proceedings, which was subjected to challenge before the Tribunal, by way of filing applications, and the Tribunal, having gone into the merits of the case, dismissed the same *in limini*. Aggrieved by the same, the present writ petition has been filed.

8. It is borne out from the record that the petitioners were entitled to pay either the HRA or the standard rent, whichever is less, and obviously, the petitioners were drawing the HRA, which was almost double the standard rent, and have been paying only half from out of the said HRA towards standard rent, thereby they were being benefited by about Rs.1,000/- per month. This is obviously contrary to the Rules in force. The petitioners were also aware that this was totally an illegal action on their part. We are making this comment because the petitioners are the drawing authorities by themselves. Therefore, it is not as though at the instance of the superior authorities, higher amount towards the HRA was being paid to them, out of which, the petitioners are paying the standard rent, which is lesser.

9. In our considered view, this is totally misreading of the circulars, though not deliberate.

10. Therefore, the respondents are absolutely right in taking a decision to recover an amount of Rs.1,11,900/- from the petitioner No.1 and an amount of Rs.49,000/- from the petitioner No.2. Further, the said amount of Rs.1,11,900/- was directed to be recovered from the petitioner No.1 at the rate of Rs.2,000/- per month from his monthly pay bills with effect from March 2006 to May 2006 and the remaining amount of Rs.90,000/- will be recovered from the encashment of earned leave and the amount of

Rs.49,000/- shall be recovered from the petitioner No.2 at the rate of Rs.4,900/- per month from his monthly pay bills.

11. From the above calculation, it is obvious that the recovery from the petitioners was only to the extent of the additional amount of the HRA at the rate of 20%, for which they are not entitled to, and the obligation of the petitioners was limited only to the extent of standard rent for a sum of Rs.1,000/- per month.

12. The additional amount, which was drawn by the petitioners illegally, was assessed as Rs.1,11,900/- in respect of the petitioner No.1 and Rs.49,000/- in respect of the petitioner No.2. Therefore, there is no ambiguity in the proceedings, dated 16.02.2000, issued by the respondent No.3-The District Collector and Magistrate, Kurnool, and we do not find any mis-appreciation of law and facts by the Tribunal in the impugned common order calling for interference by this Court.

13. For the foregoing, the writ petition fails and is liable to be dismissed.

14. In the result, the writ petition is dismissed, at the stage of admission. However, there shall be no order as to costs.

JUSTICE D.S.R.VARMA

JUSTICE K.C.BHANU

04TH DECEMBER 2007
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